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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/574,950	05/19/2000	Dale F McIntyre	80724PF-P	9923

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EXAMINER

VU, NGOC K

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/574,950

Applicant(s)

MCINTYRE ET AL.

Examiner

Ngoc K. Vu

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18, 19 and 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 recites the limitations "said cable TV communication unit being operationally associated with a monitor a cable TV communication network" in lines 3-5. It is noted that these limitations are unclear. For the purpose of examination, the underline limitations read as "a monitor and a cable TV communication network". Appropriate correction is required.

Claim 21 recites the limitation "the selected camera" in line 5. There is insufficient antecedent basis for this limitation in the claim.

3. Claims 22 and 23 recite the limitation "said first and second customers" in line 6 and lines 1-2, respectively. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Fredlund et al. (US 5,666,215 A).

Regarding claim 1, Fredlund discloses a method for requesting photographic services on images (see abstract), the method comprising the steps of:

capturing images in camera 10 (see figure 1A; col. 3, lines 21-26);

accessing a cable TV communication unit 44 with the camera 10, said the cable TV communication unit 44 being operationally associated with a monitor 48 (see figure 1A; col. 4, lines 37-45);

forwarding the captured images to the cable TV communication unit 44 for viewing on the monitor 48 (see col.4, lines 46-54); and

selecting at least one image from said captured images viewed on the monitor 48 and at least one photographic service which is to be performed on said at least one image (a program displays a graphical user interface 50 on the display device 48 that enables the customer to select one of the images from the desired photographic service – see col. 5, lines 14-31 and lines 35-37).

Regarding claim 2, Fredlund discloses that the cable communication unit 44 is a set top box operationally associated with a television (see col. 4, lines 38-45).

Regarding claim 4, Fredlund discloses sending said at least one image and instructions indicative of said photographic service to a photographic service provider 14 via a server network 26 & 28 (see figures 1A-B; col. 4, lines 46-50).

Regarding claim 18, Fredlund discloses a method of obtaining image services (see abstract), the method comprising the steps of:

accessing a cable TV communication unit 44, said the cable TV communication unit 44 being operationally associated with a monitor 48 and a cable TV communication network 40 (see figure 1A; col. 4, lines 37-45);

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receiving images on said cable TV communication unit 44 for viewing on the monitor 48 (see col.4, lines 46-54); and

selecting at least one image from said captured images viewed on the monitor 48 and requesting an order for at least one photographic service which is to be performed with respect to said at least one image using said cable TV communication unit (a program displays a graphical user interface 50 on the display device 48 that enables the customer to select one of the images from the desired photographic service and request an order the selected images using the cable TV communication unit 44 – see col. 5, lines 14-31 and lines 35-45).

Regarding claim 19, Fredlund discloses that said order is forwarded to a remote service provider 14 for fulfillment over said cable TV communication network 40 (see col. 6-7, lines 64-7; col. 4, lines 43-45).

Regarding claim 20, Fredlund discloses a method for providing image services to a customer using a cable box 44 at a first location (customer's house) with respect to an image service provider 14 located a second location (photo processing lab) remote from said first location (see figures 1A-B and abstract), the method comprising the steps of:

providing a cable communication network 40 accessible by said cable box 44, and  
providing a communication connection (via modem) with said service provider 14 and said cable communication network 40 such that customer may access said service provider (see col. 4, lines 37-50 and figures 1A-B).

Regarding claim 21, Fredlund discloses selecting a photographic service plan from a menu of photographic service plans using said cable box 44 (a program displays a graphical user interface 50 on the display device 48 that enables the customer to select one of the images from the desired photographic service – see col. 5, lines 14-31 and lines 35-44); and associating

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the selected camera 10 with the selected photographic service plan and creating a service plan account (see col. 3, lines 22-26; col. 6, lines 42-48).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 16 and 17 are rejected under 35 U.S.C. 103(a) as being obvious over Fredlund et al. (US 5,666,215 A).

Regarding claim 3, Fredlund discloses the cable TV communication unit 44 is a set top box connected to a television set (see col. 4, lines 40-41). Fredlund does not explicitly disclose the set top box 44 is digital set top box. Official Notice is taken that digital set top box type is well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cable TV communication unit 44 of Fredlund by including a digital set top box to provide high quality images for viewing.

Regarding claim 16, Fredlund does not disclose camera 10 is a digital camera. Official Notice is taken that digital camera type is well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the camera 10 of Fredlund by including a digital camera to provide high quality images without film.

Regarding claim 17, Fredlund does not disclose camera 10 is a hybrid digital/film camera. Official Notice is taken that hybrid digital/film camera type is well known in the art. Therefore, it

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would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the camera 10 of Fredlund by including a hybrid digital/film camera to capture images without and/or with film.

8. Claims 5-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fredlund and further in view of Shiota et al. (US 6,324,521 B1).

Regarding claims 5-7, Fredlund discloses that the digital image is processed by computer 26 to form a high resolution version and a low resolution version and to compress the digital image. Fredlund further discloses the resulting compressed high and low resolution image files are stored in storage device 28 (see col. 3, lines 64-67; col. 4, lines 34-36). Fredlund does not explicitly disclose a cable server routing the image to a network image server via an Internet network. However, Shiota discloses that a center server 12 stores low resolution image data. If the processing requires the special equipment, the center server 12 sends an instruction information included digital image data to a laboratory server 8 in a special laboratory 4 via Internet. Shiota further discloses that the laboratory server 8 in the special laboratory 4 stores high resolution image data (see figure 1 and col. 7, lines 51-55; col. 8, line 57 to col. 9, line 5; col. 9, lines 60-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Fredlund by routing the image from a center server to a special laboratory via Internet as disclosed by Shiota to provide the photograph service to the customers widely and efficiently.

Regarding claim 8, the combination teaching of Fredlund and Shiota further discloses routing the at least image to the photographic service provider which performs said selected photographic service on the associated image (see Fredlund: col. 8, lines 45-56; Shiota: figure 5; col. 8, line 57 to col. 9, line 28).

Regarding claim 9, Fredlund further discloses that the selected photographic service comprises selecting a desired size and quantity of prints of said at least one image and returning said prints to a designated customer (see Fredlund: col. 5, lines 35-38; col. 8, lines 16-24).

Regarding claims 10-11, Fredlund further discloses that the selected photographic service comprises a desired image product which is to be associated with said at least image and returning said image product such as a mug and T-shirt to a designated customer (see Fredlund: col. 5, lines 44-51).

Regarding claim 12, Fredlund as modified by Shiota further discloses forwarding at least one image via a server network 2 to a friend (see Shiota: col. 11, lines 56-61; col. 12, lines 18-22 and figure 7).

Regarding claim 13, Fredlund as modified by Shiota further discloses that the friend receives the image through a further cable communication network (see Shiota: col. 2, lines 56-61 and figure 7).

Regarding claim 14, Frednlund as modified by Shiota further discloses that the friend receives the image through a PC 6 (see figure 7).

Regarding claim 15, Frednlund as modified by Shiota discloses further step of entering further photographic service requests for the image from the friend (see Shiota: figure 7; col. 11, lines 50-53).

9. Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiota et al. (US 6,324,521 B1) and further in view of Fredlund et al. (US 5,666,215 A).

Regarding claim 22, Shiota discloses a method for providing image services to a customer a first computer (6) at a first location (customer's house) with respect to a second



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computer (6) of a customer located a second location (friend's house) remote from said first location, the method comprising the steps of:

providing a cable communication network accessible by said first computer and said second computer such that said first and second customers may share digital images (a customer and his/her friend can order the digital images over a network such as a CATV network, particularly, an extra print of a picture a is ordered for the customer while a picture b is for the friend – see col. 2, lines 56-61 and col. 11, lines 43-61 and figure 7).

Shiota does not explicitly disclose using a cable box for image service. However, Fredlund discloses using a personal computer or a TV set including a set top box 44 at a customer location for providing photographic service over a network (see abstract, figure 1A and col. 4, lines 37-45; col. 5, lines 38-44). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Shiota by using a TV set including a set top box at a customer location to provide photographic service via a TV network without walking to a photo shop for printing the images.

Regarding claim 23, Shiota discloses that said first and second customers access a common service (service center) located at a third remote location (see figure 7) using said cable communication network (see col. 11, lines 54-56; col. 2, lines 56-61 and figure 7).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Watanabe et al. (US 20030115277 A1) disclose a network photograph service system.

Wilson et al. (US 6,037,981) disclose a method and apparatus for using digital televisions a remote personal computer displays.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ngoc K. Vu  
Examiner  
Art Unit 2611

June 1, 2004